

**PRECAUTIONARY SUSPENSIONS IN THE PUBLIC SERVICE: REFLECTIONS  
FROM SOUTH AFRICA**

**BY**

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## TABLE OF CONTENTS

|                                    |     |
|------------------------------------|-----|
| Abstract.....                      | i   |
| Declaration by the student.....    | ii  |
| Declaration by the supervisor..... | iii |
| Dedication .....                   | vi  |
| Acknowledgement.....               | v   |

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|                        |        |
|------------------------|--------|
| Table of cases.....    | vi-vii |
| Table of statutes..... | viii   |
| Journals.....          | ix     |
| Internet Sites.....    | x      |
| Textbooks.....         | xi     |

## **CHAPTER 1**

|   |       |
|---|-------|
| 1.1 Introduction.....   | 1-2   |
| 1.2 Problem statement.....  | 2-3   |
| 1.3 Literature review.....  | 3     |
| 1.4 Research procedure and methodology.....   | 4     |
| 1.5 Motivation.....   | 4     |
| 1.6 Rationale.....  | 5     |
| 1.7 Aims and objectives.....  | 5-7   |
| 1.8 The definition of a precautionary suspension.....   | 7-9   |
| 1.9 Circumstances under which a precautionary suspension may be imposed...                                      | 9-11  |
| 1.10 Formal requirements to be followed before imposing precautionary suspension.....                           | 11-15 |
| 1.11 The effects of a precautionary suspension on an employee.....  | 16-18 |
| 1.12 Duties and obligations of the employer and the employee during the period of precautionary suspension..... | 18-20 |

## **CHAPTER 2**

|   |       |
|---|-------|
| 2.1 The Constitution of South Africa, 1996..... | 21-22 |
| 2.2 Labour Relations Act.....                   | 23-24 |
| 2.3 Public Service Act 103 of 1994.....         | 24    |
| 2.4 Senior Management Service (SMS).....        | 24-26 |

### **CHAPTER 3**

|     |  |       |
|-----|--|-------|
| 3.1 | Court decisions on unfair labour practices on precautionary suspensions                        | 27-32 |
| 3.2 | The position with regard to Senior Managers in Local Government.....                           | 32-35 |
| 3.3 | Time periods for the holding of the disciplinary hearing after a precautionary suspension..... | 35-38 |
| 3.4 | Monitoring of precautionary suspensions by the Public Service Commission.....                  | 38-41 |

### **CHAPTER 4**

|     |   |       |
|-----|---|-------|
| 4.1 | Overall analysis of cases referred to.....                                  | 42-45 |
| 4.2 | Remedies available to victims of unfair suspensions based on bad faith..... | 46-48 |

### **CHAPTER 5**

|     |                      |       |
|-----|----------------------|-------|
| 5.1 | Conclusion.....      | 49-50 |
| 5.2 | Recommendations..... | 51-52 |

## **ABSTRACT**

The study will analyse the fairness or unfairness of precautionary suspensions and the rights of employees in the Public Service who are placed on precautionary suspensions with reference to section 23(1) of the Constitution of the Republic of South Africa, 1996, which states that: (1) “ Everyone has the right to fair labour practices”

Section 186(2)(b) of the Labour Relations Act 66 of 1995 defines what an unfair labour practice is with specific reference to a precautionary suspension. It reads thus: (2) “ Unfair labour practice means any unfair act or omission that arises between an employer and an employee involving – (b) the unfair suspension of an employee or any other unfair disciplinary action short of dismissal in respect of an employee”

The study will also look at circumstances under which precautionary suspension is invoked on Senior Management Service employees in the public service in terms of chapter 7, clause .2.7(2) of the Senior Management Service Handbook, 2003.

Decided cases will be referred to which shows that one of the reasons why many precautionary suspensions are set aside when challenged in court, is because some employees who are assigned to deal with labour issues in the government departments are not competent to deal with those issues. The issue of political appointments impacts directly on service delivery if people are appointed to positions because of political affiliation than competency.

## DECLARATION BY THE STUDENT

I, Jane Tsakane Baloyi hereby declare that the mini-dissertation for the Masters of Laws (LLM) in Labour Law degree at the University of Limpopo, hereby submitted by me, has not previously been submitted for a degree at this or any other institution and that it is my work in design and execution. All reference materials contained herein have been duly acknowledged.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## DECLARATION BY THE SUPERVISOR

I, Adv. Mamagabe Henry Thobejane hereby declare that I supervised the research of this mini-dissertation by Jane Tsakane Baloyi for the degree of Masters of Laws (LLM) in Labour Law and submit that it be accepted for examination purposes.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## DEDICATION

I dedicate this work to the following people in my life:

- To my loving mother, you are the greatest.
- To my husband Harley Ngobeni, who encouraged and assisted me throughout this research. You are the source of my inspiration. It couldn't have been possible without you.
- To my children Bongani, Amukelani, and Ntsako, thanks for understanding when I could not be with you because of my studies. I truly believe that you will enjoy the fruits of the reward.
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